

## Message Text

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ACTION IO-13

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INR-07 L-03 NSAE-00 NSC-05 PA-02 PRS-01 SP-02  
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FM AMEMBASSY VIENNA  
TO SECSTATE WASHDC 1344  
INFO USMISSION USUN NEW YORK

UNCLAS VIENNA 2763

EO 11652: NA  
TAGS: UN PFOR  
SUBJECT: US CONFERENCE ON SUCCESSION OF STATES

### SUMMARY:

1. ON APRIL 6 COMMITTEE OF WHOLE ADOPTED ART. 1 OF DRAFT ARTICLES UNCHANGED FROM I.L.C. DRAFT. ART. 2 DISCUSSION WAS OCCASION FOR GENERAL STATEMENTS ON ENTIRE DRAFT AS WELL AS ON ARTICLE ITSELF. MOST COUNTRIES EXPRESSED GENERAL SUPPORT FOR DRAFT, BUT SOME WHAT REVISION OF TERMS "RESPONSIBILITY FOR INTERNATIONAL RELATIONS" AND "TERRITORY" IN ART. 2, 1 (B) OR EXPANSION OF "NEWLY INDEPENDENT STATE" DEFINITION IN 1 (F). US TOOK OPPORTUNITY TO STATE NEED FOR PROVISIONS ON SETTLEMENT OF DISPUTES.

2. US (KEARNEY) LED OFF DISCUSSION OF ART. 1 BY PROPOSING IT BE ADOPTED SINCE ENTIRE STRUCTURE OF CONVENTION DEPENDED ON IT, AND IT THUS PROVIDED CONTEXT FOR ART. 2 DISCUSSION. ROMANIA OFFERED PROPOSAL TO COMBINE ARTS. 1, 3 AND 4 AND HAVE CONVENTION APPLY TO TREATIES CONCLUDED IN WRITING, INCLUDING TREATIES CONSISTITUTING INTERNATIONAL ORGANIZATIONS. ACTING CHAIRMAN RITTER (SWITZERLAND) SUGGESTED POSTPONING CONSIDERATION OF ROMANAIN PROPOSAL UNTIL ART. 4.  
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IN ABSENCE OF CONTRARY COMMENT, HE RULED ART. 1 -\$9053\$.

3. NETHERLANDS SUGGESTED CONVENTION NEEDED DIRECT REFERENCE TO RELATIONSHIP WITH VIENNA CONVENTION ON LAW OF TREATIES. MEXICO, ROMANIA, AND BELGIUM AGREED.

4. ITALY, GREECE, CUBA, FRANCE, WEDEN, MEXICO, AND INDIA

SAW NEED FOR CLARIFICATION OF CLAUSE "RESPONSIBILITY FOR THE INTERNATIONAL RELATIONS OF TERRITORY" IN 2.1 (B) DEFINITION AND SIMILAR WORDING IN 1 (F). SEVERAL CONSIDERED 1 (F) TOO RESTRICTIVE AND SHOULD BE EXPANDED TO INCLUDE ALL TYPES OF SUCCESSOR STATES INsofar AS THEY ARE NEW STATES, REGARDLESS OF HOW FORMED.

5. STATES EXPRESSING CONCERN WITH NONRETROACTIVITY OF CONVENTION ESPECIALLY IN LIGHT OF NEAR ENDING OF DECOLONIZATION ERA, INCLUDED SWEDEN, MOROCCO, FRG, AND AUSTRALIA. FRANCE AND UK STRESSED NEED FOR SOME PROCEDURAL MECHANISM TO ALLOW SUCCESSOR STATES TO APPLY PROVISIONS OF CONVENTION WITHOUT DEROGATING FROM NONRETROACTIVITY PRINCIPLE OF ART. 7.

6. CLEAN SLATE PRINCIPLE WAS GENERALLY SUPPORTED, BUT FRANCE RECOMMENDED THAT HUMANITARIAN LAW TREATIES AND TREATIES WITH FINANCIAL ASPECTS BE ADDED TO EXCEPTIONS TO CLEAN SLATE PRINCIPLE. FRG CRITICIZED RIGIDITY NOT ONLY OF CLEAN SLATE PRINCIPLE, BUT ALSO OF "PACTA SUNT SERVANDA" PRINCIPLE. THOUGHT BOTH WERE OVERSTATED BY ILC, AND RIGHTS OF OTHER STATES NOT CLEARLY PROTECTED.

7. CUBA CRITICIZED NEO-COLONIALIST REGIMES AND PROPOSED THAT DEFINITION OF TREATY IN 1(A) REFER TO INTERNATIONAL AGREEMENT "VALIDLY" CONCLUDED. IN 1 (B) IT WOULD SUBSTITUTE "RIGHTS AND OBLIGATIONS EMANATING FROM THE INTERNATIONAL RELATIONS OF TERRITORY" FOR WORDS "RESPONSIBILITY FOR THE INTERNATIONAL RELATIONS OF TERRITORY".

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8. USSR FOUND ART. 2 ACCEPTABLE.

9. US (KEARNEY) SAID IT WAS NOT PUTTING FORWARD ANY SUGGESTIONS FOR MODIFICATION OF ART 2; IT DOUBTED MODIFICATIONS WOULD OBTAIN PROBLEMS OF INTERPRETATION THAT WOULD ARISE. BUT DISPUTES SETTLEMENT PROVISIONS WERE CLEARLY NECESSARY, AND COULD BE BUILT ON MODELS OF LAW AND TREATIES CONVENTION, 1973 CONVENTION OF PREVENTION AND PUNISHMENT OF CRIMES AGAINST DIPLOMATS, AND VIENNA CONVENTION ON REPRESENTATION OF STATES IN RELATIONS WITH INTERNATIONAL ORGANIZATIONS OF UNIVERSAL CHARACTER. BASIC US PREFERENCE WAS TO RECOGNIZE REFERENCE TO ICJ AS BEST FOR ALL QUESTIONS OF INTERPRETATION AND APPLICATION OF CONVENTION, BUT US RECOGNIZED THAT OTHERS HAD DIFFERENT APPROACHES; SUGGESTED REVIEW OF THESE AND OTHER CONVENTIONS AND FORMULATIONS OF SETTLEMENT PROCEDURES BASED THEREON. STATES EXPRESSING SUPPORT FOR DISPUTES SETTLEMENT PROCEDURES INCLUDED NETHERLANDS, FRANCE, FRG, SWEDEN, UK, JAPAN, AND ISRAEL.

10. GREECE PROPOSED ELIMINATION OF ART. 2 PARA 2, AS "INVITATION TO ANARCHY". UAE AND ROMANIA AGREED. LEGAL EXPERT SIR FRANCIS VALLAT DEFENDED INCLUSION OF PARA 2 ON BASIS THAT TERMS HAVE SPECIAL AND DIFFERENT MEANING IN DOMESTIC LAW THAN INTERNATIONAL LAW AND SINCE PROVISION APPEARS IN LAW OF TREATIES CONVENTION,ITS OMISSION HERE WOULD CREATE DOUBT AND CONFUSION. GREECE SAID IT WOULD NOT PRESS POINT.

11. PROGRAM FOR APRIL 7 INCLUDES ANY FURTHER PROPOSALS ON ART. 2, DISCUSSION OF ART. 3 ET SEQ., AND OPPORTUNITY FOR OBSERVER REPRESENTATIVE OF COUNCIL OF NAMIBIA TO ADDRESS CONFERENCE. MEEHAN

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## Message Attributes

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